

Appl. No. 09/897,921

REMARKS / ARGUMENTS

The applicant appreciates the Examiner's concerns as expressed in the rejection of claims 1-3 and 5-17, both as originally filed and as subsequently amended. Although the applicant does not necessarily agree with the Examiner's characterization of those claims as encompassing old art, the applicant has amended claims 1-3 and 5-7 to address these concerns. Claims 8 to 17 have been cancelled, without prejudice.

The Examiner asserted that the term "area" is indefinite. Applicant submits that the amended language of claim 1 prevents this term from having indefinite dimension. In particular, the language of the amended claim ("providing an alternate route between the first point and the second point") limits the required level of proximity and requires the area to be close enough to the tract of land to make it practical to use the further road as an alternate route. For example, while it is no doubt technically possible to drive from Miami to Orlando by way of Los Angeles, it is respectfully submitted that no reasonable person, and certainly no person skilled in the art of road design, would consider this to be an "alternate route" to that of travelling directly from one city to the other via Interstate 95. Thus, the applicant submits that when read in the context of the claim as a whole, the word "area" is sufficiently definite.

Similarly, the applicant has further limited the area to one "substantially encompassing a body of water." This, it is submitted, will remove from the scope of the claims such matters as the initial construction of a roadway that includes a bridge to traverse a body of water that is in the otherwise overland path of that roadway.

The Examiner contends that the instant invention as previously claimed might be construed to read on existing knowledge of road design. In response, Applicant has amended the claims of the application and submits that the invention, as presently claimed, does not read on the prior art.

The applicant's invention is directed towards a novel method of routing traffic away from an existing roadway that has become, for example, too crowded, through the use of an alternate roadway constructed over water. In contrast, Wright describes a method of determining the location for a new roadway and does not, in the excerpt provided, make any specific reference to the routing of traffic from an existing roadway. Furthermore, even in his cursory description of the selection process for an initial road, Wright teaches precisely the opposite of what the applicant has invented. In particular, Wright at page 403 implies that it is advantageous to locate the road over water to the least extent possible, noting that the selected road "crossed the Chattahoochee River ... at one of the narrowest widths of the river's flood plain." In contrast, the applicant teaches the location of the alternate road over an area that is substantially (or entirely) composed of water.

The applicant's invention, in its essence, is the location of an alternate roadway over a body of water so as to provide an alternative route to an existing road or roads, and independent claim 1 has been amended to reflect this limitation. In particular, the claim refers to routing traffic from an existing road or roads. Wright, on the other hand, discloses some considerations in choosing the location of a first road which is not an alternate route.

Furthermore, the applicant's inventive advancement of the art, namely the location of an alternative route over a body of water, is not simply the inclusion of a bridge as part of a roadway. This is not what the applicant has invented, nor what the

applicant has claimed. The applicant's claim 1, as amended, is limited to situations where no bridge is necessary, and where conventional road design as disclosed by Wright would not teach the use of a bridge. In fact, Wright would teach that the use of a bridge in such situations was entirely inappropriate.

Specifically, the existing road or roads of claim 1 are located in the tract of land and hence would circumvent the body of water. In other words, this means that the existing road, when initially designed according to the teachings of (e.g.) Wright, was constructed so as to link the first point and the second point by tracing a path *around* the body of water, rather than over it. This means that application of the prior art (such as Wright's teachings) would have resulted in the location of a first road having no bridge, despite the presence of an area "substantially comprising" water, because it was determined that the better approach would be to circumvent that water. For example, in the case of a roadway that is to run parallel to a relatively straight shoreline, conventional teachings on road construction would not counsel the location of such a roadway over the water.

The applicant's amended claim 1 would have no application to a situation where, when constructing an initial roadway, the decision is made to run a bridge over a body of water instead of constructing the road to circumvent that body of water, such as where a bridge is built over a lake or river. The applicant's claim 1 would cover only the situation where, in constructing an alternative route to an existing road that circumvents the body of water, the alternate route is constructed on top of the body of water (something the original road designers had by definition considered infeasible). With respect, the Examiner has cited no prior art reference that teaches this method, since, as noted above, Wright does not, in the excerpt provided, make any specific reference to the routing of traffic from an existing roadway, and certainly makes no reference to building such an alternate roadway over a body of water.

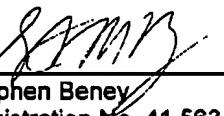
The applicant's invention, at its core, is a method of routing traffic by building an alternate road over a body of water that runs more or less alongside an existing road (or roads). The situation is such that, except for this invention, there is no need for a bridge linking two points because the entire original road is on the same tract of land. This method has particular applicability, for example, when there is no more available land on which to build an additional road, and to the applicant's knowledge the method has not been practiced, known or disclosed before. The applicant's amendments, as described above, are meant to better delineate the true nature of the invention. Again, the applicant submits that, having clarified the nature of the invention, the Wright reference is no longer applicable, and would ask that the Examiner issue a notice of allowance.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made."

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

Bereskin & Parr

By 
Stephen Beney
Registration No. 41,563
(416) 957-1697

Appl. No. 09/897,921

VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the claims:

Claim 1 has been amended as follows:

1. (Twice Amended) A method of routing traffic, comprising:

- a) identifying a first point and a second point located on at least one existing road
on a tract of land from where traffic is to be routed;
- b) identifying an area spaced from proximate to the tract of land, the area being suitable for supporting a further road for routing the traffic, and the area substantially encompassing a body of water at least a portion of the area comprising at least a portion of a body of water located proximate to the tract of land;
- c) locating the further road through the area to span the tract of land, the further road being located above the body of water; and
- d) linking the further road to the first point and the second point so that the further road provides an alternate route to the at least one existing road either end of the tract of land.

Claim 2 has been amended as follows:

2. (Amended) A method according to claim 1 wherein step d) further comprises linking the further road to the tract of land at least one existing road at at least one intermediate location between the first point and the second point.

Claim 5 has been amended as follows:

5. (Twice Amended) A method according to claim 1 wherein the further road is generally parallel to a shoreline of the body of water and the tract of land.

Claim 6 has been amended as follows:

6. (Twice Amended) A method according to claim 1 wherein the further road is a bridge.

Claim 7 has been amended as follows:

7. (Twice Amended) A method according to claim 1 wherein the further road is a floating road.

Claims 8 to 17 have been canceled without prejudice.